

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Heraeus Metal Processing, Inc.
15524 Carmenita Road
Santa Fe Springs, California 90670

EPA ID No. CAD060398229

Respondent.

Docket HWCA 2009-2081

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Heraeus Metal Processing, Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats and stores hazardous waste at the following site: 15524 Carmenita Road, Santa Fe Springs, California 90670.

1.3. Inspection. The Department inspected the Site on June 2, 3 and 4, 2009.

1.4. Authorization Status. Respondent is a precious metal recycler operating under its Standardized Hazardous Waste Permit, Series B and Granted Appeal, Docket No. HWCA 99/00-P003.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations

alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated Health and Safety Code section 25202 and its Hazardous Waste Facility Permit, Part III.1, in that on or about June 2, 2009, Respondent stored hazardous waste at the Hazardous Waste Storage Area-S1 in excess of its storage capacity.

2.1.2. Respondent violated California Code of Regulations, title 22, section 66264.31 in that it failed to minimize the possibility of unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents which could threaten the human health and the environment.

2.1.3. Respondent violated California Code of Regulations, title 22, section 66264.35 in that on or about June 2, 2009, Respondent failed to maintain adequate aisle space in between rows of drums.

3. SCHEDULE FOR COMPLIANCE

3.1. DTSC considers Respondent to be in compliance provided that it comply with the following:

3.1.1. Effective immediately, Respondent shall not store hazardous or non-hazardous waste in excess of its authorized storage capacity.

3.1. 2. Effective immediately, Respondent shall store containers such that said containers are securely confined and/or restrained using a chain or bar on the third shelf of each pallet until such time as the special conditions in its approved hazardous waste facility permit become effective.

3.1.3. Effective immediately, Respondent shall maintain adequate aisle space where containers and their labels are visible for inspection.

3.2. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this

Order.

4.8. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department the total sum \$12,000 (twelve thousand dollars), as a penalty.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Mukul Agarwal, Supervising Hazardous Substances Scientist I
Enforcement and Emergency Response Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section

25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

5.5. Respondent has provided the Department with a current ISO 14001 Certificate. Respondent also agrees to perform an annual surveillance audit, and provide documentation to the Department of such audit within 30 days of such audit. Currently, Respondent's next annual surveillance audit is scheduled for August 2011. If the date of the August 2011 audit is changed, Respondent shall notify the Department of such change within 15 days of the change and provide a new date. Respondent further agrees to provide the Department with documentation of its ISO 14001 recertification audit, which is currently scheduled for August 2011. If the date of the August 2011 recertification audit is changed, Respondent shall notify the Department of such change within 15 days of the change and provide a new date. The Department has included a downward adjustment of 15%, or \$1,750, in recognition of Respondent's ISO 14001 Certificate, as authorized pursuant to California Code of Regulations, title 22, section 66272.68, subdivision (c). If Respondent fails to submit the Certificate and audits as required, and without demonstrating good cause, the penalty of \$1,750 is immediately due and payable upon demand by the Department. Respondent must provide written documentation of good cause, for Department approval, to a Department Performance Manager.

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6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: October 4, 2010

Original signed by Curtis Mello
Curtis Mello, Vice President
Heraeus Metal Processing, Inc.

Dated: October 6, 2010

Original signed by Mukul Agarwal
Aarwal, Supervising Hazardous Substances
Scientist I
Department of Toxic Substances Control